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NOTICE OF ALLOWANCE AND FEE(S) DUE

45599 7590 02/11/2005

GREENBERG TRAURIG LLP  
MET LIFE BUILDING  
200 PARK AVENUE  
NEW YORK, NY 10166

EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 02/11/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,191	12/29/2000	Jean-Pierre Giruad	5094.035	8524

TITLE OF INVENTION: METER STRIP DISPENSER ASSEMBLY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	05/11/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail**

**Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
(703) 746-4000**

or **Fax**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

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**GREENBERG TRAURIG LLP  
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NEW YORK, NY 10166**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1400	\$300	\$1700	05/11/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
BUTLER, MICHAEL E	3653	221-235000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).  
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list  
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

### 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

#### 4a. The following fee(s) are enclosed:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

#### 4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

#### 5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



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EXAMINER

BUTLER, MICHAEL E

ART UNIT	PAPER NUMBER
3653	

DATE MAILED: 02/11/2005

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 120 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 120 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Art Unit: 3653

**Examiner's Amendment**

In accordance with the interview of Barry Schindler on 1/14/2005, the following amendment has been made to clearly define the claims and eliminate issues under 112 second paragraph:

- In claim 5: in line 2 replace "substantially" with "proximate" and in line 3 replace "substantially" with "proximate" .
- In claim 10: in line 2 replace "substantially" with "proximate" and in line 3 replace "substantially" with "proximate" .
- In claim 46: in the claim history parenthetical in line 1, replace "new" with "previously presented" .
- In claim 47: in the claim history parenthetical in line 1, replace "new" with "previously presented" .

Cancel claims 14-45

Michael E. Butler

ART UNIT: 3653

**DETAILED ACTION*****Examiners Amendment***

1. In accordance with the interview of Barry Schindler on 1/14/2005, the following amendment has been made to clearly define the claims and eliminate issues under 112 second paragraph:

***Examiners Amendment***

2. The following changes have been made:

In claim 5: in line 2 replace "substantially" with "proximate" and  
in line 3 replace "substantially" with "proximate" .

In claim 10: in line 2 replace "substantially" with "proximate" and  
in line 3 replace "substantially" with "proximate" .

In claim 46: in the claim history parenthetical in line 1, replace "new" with "previously presented" .

In claim 47: in the claim history parenthetical in line 1, replace "new" with "previously presented" .

Non-elected claims 14-45 have been cancelled.

3. This application is in condition for allowance but for the presence of claims 114-45 non-elected without traverse. Accordingly, claims 14-45 are cancelled.

***Drawings***

4. Formal drawings are required as this application was filed with informal drawings.

***Allowable Subject Matter***

5. Claims 1-13 and 46-48 are allowed.

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6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. The following is an examiner's statement of reasons for allowance: The prior art neither discloses nor obviates a test strip dispenser having housing, container within housing, movable body connected to button, movable body configured to engage test strip and partially displace strip from container in movable body's first position upon a first pushing of a button, movable body configured to engage test strip and fully displace strip from container in movable body's second position upon a second pushing of a button.

Of particular interest was Pawlo which discloses a strip dispenser having housing, container within housing, movable body engaging test strip to displace strip from container, body connected to actuator, movable mechanism drives body into engagement and displace a test strip dispenser having housing, container within housing, movable body connected to button, movable body configured to engage test strip and partially displace strip from container in movable body's first position upon a partial pushing of a button, movable body configured to engage test strip and fully displace strip from container in movable body's second position upon a full pushing of a button.. However, in Pawlo et al. lacks a button to engagement linkage mechanism that cycles the engagement mechanism and its reliant strip at a period less than the as Pawlo et al. discloses the simpler button to engagement linkages that coincide depression to engagement and release to retraction, and only the mechanical button linkage of fig. 4 has

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a separate full exposure contrasted to partial exposure of the strip and that being a result of a partial button depression rather than a cycling of the button. .

Of further interest is Van Schie disclosing: a dispenser of rigid strips having housing, container within housing, movable body engaging test strip to displace strip from container, body connected to actuator, movable mechanism drives body into engagement a button-strip engagement linkage that results in a partial exposure of the strip out an opening and a movement to a second engagement position with full exposure of the strip a result of button release rather than the claimed system which cycles the engagement mechanism separately upon button cycling.

Draper et al. discloses a test strip dispenser having housing, container within housing, movable body electrically connected to button, movable body configured to engage test strip and partially displace strip from container in movable body's first position upon a first pushing of a button, movable body configured to engage test strip and fully displace strip from container in a subsequent cycling to movable body's first position upon a second pushing of a button. However, the engaging mechanism electrical linkage cycles the engaging mechanism one for one with the pushbutton with an incrementing of the strip upon the engaging mechanism.

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*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Examiner

  
DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600



# Notice of Allowability

Application No.  
09/751,191

Applicant(s)  
Giruad

Examiner  
Michael E. Butler

Art Unit  
3653



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/6/2004.
2. ☒ The allowed claim(s) is/are 1-13 and 46-48.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received: \_\_\_\_\_

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
(a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.  
(b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the examiner.  
(c) ☒ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. 19.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |  |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____    |
| 5 <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449), Paper No(s). _____          | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment         |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
| 9 <input type="checkbox"/> Other   |  |